FARAD CONTINUTION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Second Appeal No.l503 of 2005
with
Civil Application No.2l45 of 2005

Office Notes,Office Memorandum of Coram appearence,Court's Orders & Directors and Registrar's Order	Court or Judge's Order

Mr.S.S.Patwardhan for appellants
Mr C.G.Gavnekar for respondent nos lA to lF

CORAM; A.M.KHANWILKAR J.

DATED 22.2.2006

P.C.

. Heard learned counsel for the parties. Having regard to the concurrent findings of fact recorded by the lower courts on careful analysis of the materials on record, in my opinion, no substantial questions of law will arise for consideration. The learned counsel for the appellants however, relying on the findings recorded in para 8 of the impugned judgment by the appeal court

submits that following substantial question of law will arise for consideration:

"If plaintiff goes to the court with a case for specific performance of reconveyance agreement whether the appeal court is justified in disbelieving that case and yet passing the decree by treating the subsequent document as independent agreement of sale ?"

. This submission does not commend to me. This is so because two courts below have clearly recorded a finding of fact that execution of the agreement dated 3l.8.l986 has been proved. The said agreement was for reconveyance of the suit property after expiry of the period of l2 years. Indeed execution of earlier agreement between the parties on 23.l2.l985 was a outright sale agreement but the parties amended themselves by executing subsequent agreement dated 3l.8.l986 as the

intent of the parties was to execute an agreement of reconveyance. The courts below have accepted the case that the said document is a reconveyance document so as to decree the suit on that finding in favour of the plaintiff. Understood thus, the question formulated across the Bar by the learned counsel for the appellant at the time of argument is of no avail, in the fact situation of the present case. Hence appeal as well as the civil applications are dismissed.